

From: [Thompson, Steve](#)
To: [Coleman, Sam](#); [Gray, David](#)
Cc: [Seager, Cheryl](#); [Barnett, Cheryl](#); [Welton, Patricia](#); [Payne, James](#); [Brooks, Phillip](#); [Holmes, Carol](#); [Lannen, Justin](#)
Subject: RE: No Action Assurance for specific NSPS and MACT Subparts; Declared Disaster Counties; Air Curtain Incinerators
Date: Friday, October 13, 2017 10:07:03 AM
Attachments: [image001.png](#)

We just finished a conference call with TCEQ, OECA, OGC and OAQPS and it was determined that the air curtain incinerators to be operated at Texas Debris Management Sites can be operated under the temporary exemption allowed under 40 CFR 60.2969 for air curtain incinerators used for disaster recovery and a No Action Assurance is not needed. The air curtain incinerators can be initially operated for 8 weeks with no EPA approval. After 8 weeks, additional extensions can be granted.

TCEQ was pleased with this answer and stated that we could ignore their request for the NAA.

From: Payne, James
Sent: Friday, October 13, 2017 8:28 AM
To: Coleman, Sam <Coleman.Sam@epa.gov>; Gray, David <gray.david@epa.gov>
Cc: Seager, Cheryl <Seager.Cheryl@epa.gov>; Thompson, Steve <thompson.steve@epa.gov>; Barnett, Cheryl <Barnett.Cheryl@epa.gov>; Welton, Patricia <Welton.Patricia@epa.gov>
Subject: Fwd: No Action Assurance for specific NSPS and MACT Subparts; Declared Disaster Counties; Air Curtain Incinerators

Sam, David - as background, an NAA was *not* needed for woody debris burning after Hurricane Sandy, because of existing flexibilities in the regs, per OECA report below. So closer discussions w TCEQ are anticipated shortly this am. Jim

Sent from my iPhone

Begin forwarded message:

From: "Fogarty, Johnpc" <Fogarty.Johnpc@epa.gov>
Date: October 12, 2017 at 7:00:06 PM CDT
To: "Holmes, Carol" <Holmes.Carol@epa.gov>
Cc: "Thompson, Steve" <thompson.steve@epa.gov>, "Brooks, Phillip" <Brooks.Phillip@epa.gov>, "Seager, Cheryl" <Seager.Cheryl@epa.gov>, "Payne, James" <payne.james@epa.gov>, "Welton, Patricia" <Welton.Patricia@epa.gov>, "Lannen, Justin" <Lannen.Justin@epa.gov>, "Barnett, Cheryl" <Barnett.Cheryl@epa.gov>, "Chapman, Apple" <Chapman.Apple@epa.gov>
Subject: Re: No Action Assurance for specific NSPS and MACT Subparts; Declared Disaster Counties; Air Curtain Incinerators

That's correct re Sandy. There was a very large volume of debris - maybe 6 or more weeks' worth of operation of multiple ACIs - and the reg provisions covered all

activities.

Sent from my iPhone

On Oct 12, 2017, at 5:34 PM, Holmes, Carol <Holmes.Carol@epa.gov> wrote:

Thanks Steve – I took off Sam and added John and Apple. I still have not heard why the existing OSWI NSPS exemption doesn't cover the activities that Texas wants to undertake. Also, it is my understanding that the stationary engine NSPS and MACT, even if they applied to the blower engines, doesn't have a limit on hours of operation for emergency generators. So again, I am not sure they need anything at all, let alone something as broad as what they've requested.

Also, assuming the NSPS/MACT were to apply, we would need some conditions on the operation of the units in noncompliance with those requirements. What do y'all think would be appropriate conditions on engines and incinerators that would otherwise be subject to the NSPS/MACT? That they are used only for disaster debris and pursuant to the emails only wood debris? Reporting after the disaster is over re hours the operated, fuel etc? You may want to take a look at other NAAs to get a feel for what we request.

Since it appears that Texas's greatest concern is about the engines that operate the blowers and whether they would be limited on the hours they could operate those engines in the long run, as far as I can tell there is nothing keeping Texas from moving forward with their plans to use ACI to address disaster debris tomorrow. Even if there were some hours or operation limit on the blower engines, one would think they could operate a day or two without an NAA before getting anywhere near the limit, to give everyone time to figure out what exactly they need (if anything).

If I remember correctly John, we didn't need to do anything for Sandy b/c of the NSPS exemption, right?

Thanks!

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Carol S. Holmes
Senior Counsel
Crosscutting Policy Staff
Office of Civil Enforcement (MC 2241A)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460
Phone (202) 564-8709

From: Thompson, Steve
Sent: Thursday, October 12, 2017 5:23 PM
To: Brooks, Phillip <Brooks.Phillip@epa.gov>; Holmes, Carol <Holmes.Carol@epa.gov>
Cc: Seager, Cheryl <Seager.Cheryl@epa.gov>; Coleman, Sam <Coleman.Sam@epa.gov>; Payne, James <payne.james@epa.gov>; Welton, Patricia <Welton.Patricia@epa.gov>; Lannen, Justin <Lannen.Justin@epa.gov>; Barnett, Cheryl <Barnett.Cheryl@epa.gov>
Subject: RE: No Action Assurance for specific NSPS and MACT Subparts; Declared Disaster Counties; Air Curtain Incinerators

Phil/Carol:

Here is a draft NAA prepared by the Region to assist with expediting the response. Please let us know if we can be of further assistance.

Thanks,
Steve

From: Coleman, Sam
Sent: Thursday, October 12, 2017 1:59 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>
Cc: Brooks, Phillip <Brooks.Phillip@epa.gov>; Seager, Cheryl <Seager.Cheryl@epa.gov>; Thompson, Steve <thompson.steve@epa.gov>
Subject: FW: No Action Assurance for specific NSPS and MACT Subparts; Declared Disaster Counties; Air Curtain Incinerators

I just spoke to Richard Hyde. We previously agreed that the State could authorize burning under state authorities. Based on their analysis, this request goes further than we previously authorized.

Texas Dept of Forestry and the TCEQ will join together to monitor the burn sites and assure that only woody debris is burned.

Let me know our timing on getting back to them.

Samuel Coleman, P.E.
Deputy Regional Administrator
EPA Region 6
coleman.sam@epa.gov
214.665.2100 Ofc
214.665.3110 Direct
214.789.2016 Cell

From: Tracy Miller [<mailto:tracy.miller@tceq.texas.gov>]
Sent: Thursday, October 12, 2017 1:44 PM
To: Coleman, Sam <Coleman.Sam@epa.gov>
Cc: Richard Hyde <richard.hyde@tceq.texas.gov>; Ramiro Garcia <ramiro.garcia@tceq.texas.gov>; Steve Hagle <steve.hagle@tceq.texas.gov>; Thompson, Steve <thompson.steve@epa.gov>
Subject: No Action Assurance for specific NSPS and MACT Subparts; Declared Disaster Counties; Air Curtain Incinerators

Administrator Coleman,

As you are aware, Texas is actively managing massive amounts of debris resulting from the wind and rainfall damage associated with Hurricane Harvey. This overwhelming amount of debris presents extraordinary circumstances making normal debris removal methods difficult. Specifically, the volume of debris and limited disposal options in declared disaster counties necessitates the state to utilize all effective options, including maximum use of air curtain incinerators (ACI) that require a general operating permit and compliance with certain New Source Performance Standards (NSPS) and Maximum Achievable Control Technology (MACT) Standards.

To facilitate the use of ACIs at Texas Commission on Environmental Quality (TCEQ) approved Temporary Debris Management Sites in declared disaster counties, the TCEQ, on behalf of Governor Greg Abbott, respectfully requests that EPA provide a No Action Assurance to allow for discretion not to pursue enforcement for violations of the following NSPS and MACT Standards:

- 40 CFR Part 60, Subpart CCCC - Standards of

Performance for Commercial and Industrial Solid Waste Incineration Units;

- 40 CFR Part 60, Subpart EEEE - Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006;
- 40 CFR Part 60, Subpart IIII - Standards of Performance for Stationary Compression Ignition Internal Combustion Engines;
- 40 CFR Part 60, Subpart JJJJ - Standards of Performance for Stationary Spark Ignition Internal Combustion Engines; and
- 40 CFR Part 63, Subpart ZZZZ - National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines

Thank you for your consideration of this request. If you any questions or concerns, please feel free to contact Ramiro Garcia, Jr., Deputy Director for the Office of Compliance and Enforcement, at (512) 239-4481, or Steve Hagle, Deputy Director for the Office of Air, at (512) 239-1295.

Thank you,

Tracy Miller (on behalf of Ramiro Garcia, Jr.)

Tracy L. Miller

Special Assistant to the Deputy Director
Office of Compliance and Enforcement, TCEQ
512.239.4127 office
512.634.7614 mobile
Tracy.miller@tceq.texas.gov



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